

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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COURTNEY LINDE et al.,	:	
	:	<b><u>ORDER</u></b>
Plaintiffs,	:	
	:	04 Civ. 2799 (BMC) (VVP)
- against -	:	and related cases <sup>1</sup>
	:	
ARAB BANK, PLC,	:	
	:	
Defendant.	:	
	:	
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This Order relates to defendant's demonstrative slides and the testimony of Dr. Milton-Edwards.

The Court will not hold a *Daubert* hearing. Plaintiffs may raise their concerns as to lack of foundation for Dr. Milton-Edwards' testimony by objection or after *voir dire* as to documents. The Court will hear testimony outside of the jury's presence if necessary, and rule on whether she has a sufficient foundation to offer it. Otherwise, plaintiffs' objections are best resolved on cross-examination.

Both Dr. Milton-Edwards and Jonathan Benthall proffered expert testimony that touched upon the role of foreign NGOs like USAID and ANERA, and that testimony was permitted by Judge Gershon. See Linde v. Arab Bank, PLC, 922 F. Supp. 2d 316 (E.D.N.Y. 2013). The Court did not intend to contradict any of those rulings, and thus its ruling at the July 30, 2013 conference applied only to exhibits and documents. Dr. Milton-Edwards may therefore offer her

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<sup>1</sup> The following related cases have been consolidated with this case for the purposes of discovery and other pretrial proceedings: Philip Litle, et al. v. Arab Bank, PLC, 04-CV-5449; Oran Almog, et al. v. Arab Bank, PLC, 04-CV-5564; Robert L. Coulter, Sr., et al. v. Arab Bank, PLC, 05-CV-365; Gila Afriat-Kurtzer, et al. v. Arab Bank, PLC, 05-CV-388; Michael Bennett, et al. v. Arab Bank, PLC, 05-CV-3183; Arnold Roth, et al. v. Arab Bank, PLC, 05-CV-03738; Stewart Weiss, et al. v. Arab Bank, PLC, 06-CV-1623.

testimony as to the effect of those NGOs on public perceptions of zakats, provided she does not opine on the mental state of any such NGO. Testimony that a foreign NGO would not have given money to a charity affiliated with Hamas would fall into this category, and be speculative, and is therefore inadmissible.

The Court is concerned, however, that the testimony of Mr. Benthall may prove cumulative of Dr. Milton-Edwards'. At this point, it is unclear what Mr. Benthall will testify to that Dr. Milton-Edwards will not have already covered. If the testimony proves cumulative, the Court will exclude it.

As the Court indicated on the record, a general history of the conflict in Israel and Palestine is not relevant. Dr. Milton-Edwards has been permitted to provide some historical context as to zakat committees, not the conflict in general. Slides 2-13 will be excluded.

Any photographs that were taken after Dr. Milton-Edwards filed her expert report will be excluded. Pictures of smiling children at charities are excluded regardless of when they were taken; they are in no way probative of whether that charity was affiliated with Hamas, and are clearly calculated to sway the jury's emotions. Dr. Milton-Edwards may refer to licenses issued by government authorities, as part of the basis of her expert opinion. Showing the actual licenses to the jury will not help them evaluate her opinion.

Plaintiffs may raise further objections to specific slides at sidebar, as defendant did

during Mr. Spitzen's direct examination. All slides must therefore be shown to plaintiffs' counsel before being displayed to the jury, and because many of the slides have multiple bullet points, defendant should consider animating the slides to display one point at a time.

**SO ORDERED.**

Digitally signed by Brian M.  
Cogan

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U.S.D.J.

Dated: Brooklyn, New York  
September 4, 2014